



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

INTEGRA SPECIALTY GROUP PA
517 NORTH CARRIER PARKWAY SUITE G
GRAND PRARIE TX 75050

Respondent Name

POLY AMERICA LP

Carrier's Austin Representative Box

Box Number 11

MFDR Tracking Number

M4-10-4655-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "No Denial/Pre-authorized #1033309F1". "No dispute on file/Pre-Auth#1033309F1". "No dispute on file for DOI 12/14/06". "Doctor Review does not address DOI 12/14/06 / Pre-Authorization # #1033309F1". "Peer Review does not address DOI 12/14/06". "No denial reason on EOB".

Amount in Dispute: \$8612.19

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent did not submit a response to this request for medical fee dispute resolution.

Response Submitted by: None

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 28, 2009 August 31, 2009 September 1, 2009 September 2, 2009 September 3, 2009 September 4, 2009 October 2, 2009	Chronic Pain Management – CPT code 97799-CP (8 hours x 7 dates = 56 hours)	\$800.00/day	\$5600.00
September 21, 2209	Chronic Pain Management – CPT code 97799-CP (4 hours)	\$400.00/day	\$400.00
September 9, 2009 September 14, 2009	Chronic Pain Management – CPT code 97799-CP (3 hours x 2 dates = 6 hours)	\$300.00/day	\$600.00
September 28, 2009 September 30, 2009	Chronic Pain Management – CPT code 97799-CP (6 hours x 2 dates = 12 hours)	\$600.00/day	\$1200.00
August 10, 2009 October 7, 2009	CPT Code 99214	\$138.46/day	\$280.22

September 24, 2009 December 11, 2009 January 7, 2010	CPT Code 99080-73	\$15.00/day	\$0.00
September 24, 2009 October 13, 2009 December 11, 2009	CPT Code 99213	\$91.92/day	\$279.06
January 7, 2010	CPT Code 99213	\$99.68	\$99.13
December 23, 2009	CPT Code 99212	\$55.71	\$55.71
January 28, 2010	CPT Code 99212	\$59.12	\$59.10
TOTAL		\$8612.19	\$8573.22

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307, sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.204, effective March 1, 2008, sets the reimbursement guidelines for the disputed services.
3. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputes service.
4. 28 Texas Administrative Code §129.5, effective July 16, 2000, 25 TexReg 6520, sets out the requirements for work status reports.
5. 28 Texas Administrative Code §124.2, *effective* June 5, 2003, requires the insurance carrier to notify the Division that a dispute over compensability exist.
6. 28 Texas Administrative Code §133.308, sets out the procedures for requesting review by an Independent Review Organization (IRO).
7. 28 Texas Administrative Code §133.305, sets forth general provisions regarding dispute of medical bills.
8. Texas Labor Code § 408.021, requires that except in an emergency, the treating doctor must be approved or recommended by the treating doctor.
9. The services in dispute were reduced/denied by the respondent with the following reason codes:
Explanation of benefits dated September 25, 2009 reference CPT code 99214
 - 219-Based on extent of injury. (NOTE: To be used for Workers' Compensation Only)
 - Not related to injury and/or illness.
Explanation of benefits dated November 10, 2009 reference CPT code 97799-CP
 - 219-Based on extent of injury. (NOTE: To be used for Workers' Compensation Only)
 - Not related to injury and/or illness.
Explanation of benefits dated November 12, 2009 reference CPT code 99080-73
 - 165-Payment denied/reduced for absence of, or exceeded referral.
 - Not treating doctor approved treatment.
Explanation of benefits dated November 25, 2009 reference CPT code 97799CP
 - 219-Based on extent of injury. (NOTE: To be used for Workers' Compensation Only)
 - Not related to injury and/or illness.
Explanation of benefits dated November 25, 2009 reference CPT code 97799CP
 - 219-Based on extent of injury. (NOTE: To be used for Workers' Compensation Only)
 - Not related to injury and/or illness.

- Services not related in accordance with Doctor Review.

Explanation of benefits dated November 25, 2009 reference CPT code 99213

- 219-Based on extent of injury. (NOTE: To be used for Workers' Compensation Only)
- Not related to injury and/or illness.
- Services not related in accordance with Doctor Review.

Explanation of benefits dated March 12, 2010 reference CPT code 99080-73

- 50-These are non-covered services because this is not deemed a 'Medical Necessity' by the payer. Adjuster disputes charges as medically necessary and reasonable.

Explanation of benefits dated June 15, 2010 reference CPT code 99080-73.

- 193-Original payment decision is being maintained. This claim was processed properly the first time.

Explanation of benefits dated June 15, 2010 reference CPT code 97799-CP.

- 193-Original payment decision is being maintained. This claim was processed properly the first time.

Explanation of benefits dated June 18, 2010 reference CPT code 99214.

- 193-Original payment decision is being maintained. This claim was processed properly the first time.

Explanation of benefits dated June 18, 2010 reference CPT code 97799-CP.

- 193-Original payment decision is being maintained. This claim was processed properly the first time.

Explanation of benefits dated June 18, 2010 reference CPT code 97799-CP.

- 193-Original payment decision is being maintained. This claim was processed properly the first time.
- Services not related in accordance with Doctor Review.

Explanation of benefits dated June 18, 2010 reference CPT code 97799-CP.

- 193-Original payment decision is being maintained. This claim was processed properly the first time.
- Services not related to injury in accordance to Peer Review.

Explanation of benefits dated June 21, 2010 reference CPT code 97799-CP.

- 216-Based on the findings of a review organization.

Explanation of benefits dated June 21, 2010 reference CPT code 99212.

- 216-Based on the findings of a review organization.

Issues

1. Does a compensability issue exist in this case?
2. Does a medical necessity issue exist for the January 7, 2010 work status report?
3. Does a treating doctor referral issue exist for the September 24, 2009 work status report?
4. Is the requestor entitled to reimbursement for the chronic pain management program?
5. Is the requestor entitled to reimbursement for CPT code 99214?
6. Is the requestor entitled to reimbursement for CPT code 99080-73?
7. Is the requestor entitled to reimbursement for CPT code 99213?
8. Is the requestor entitled to reimbursement for CPT code 99212?

Findings

1. The respondent denied reimbursement for the disputed services based upon "219-Based on extent of injury. (NOTE: To be used for Workers' Compensation Only)"; and "Not related to injury and/or illness".

28 Texas Administrative Code §124.2 (d) states "The carrier shall notify the Commission and the claimant of a denial of a claim (Denial) based on non-compensability or lack of coverage in accordance with this section and as otherwise provided by this title." A review of Division records does not support that the respondent notified the Division of a denial of a claim based upon compensability; therefore, the EOB denial of "219" is not supported.

2. The respondent denied reimbursement for the January 7, 2010 work status report, CPT code 99080-73 based upon "50-These are non-covered services because this is not deemed a 'Medical Necessity' by the payer. Adjuster disputes charges as medically necessary and reasonable".

28 Texas Administrative Code §133.305(a)(4) defines a medical fee dispute as a dispute that involves an amount of payment for non-network health care rendered to an injured employee (employee) for health care determined to be medically necessary and appropriate for treatment of that employee's compensable injury.

28 Texas Administrative Code §133.305(b) requires that "If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and 408.021."

28 Texas Administrative Code §133.307(e)(3)(G) requires that if the request contains an unresolved adverse determination of medical necessity, the Division shall notify the parties of the review requirements pursuant to §133.308 of this subchapter (relating to MDR by Independent Review Organizations) and will dismiss the request in accordance with the process outlined in §133.305 of this subchapter (relating to MDR--General). The appropriate dispute process for unresolved issues of medical necessity requires the filing of a request for review by an Independent Review Organization (IRO) pursuant to 28 Texas Administrative Code §133.308 prior to requesting medical fee dispute resolution.

Review of the submitted documentation finds that there are unresolved issues of medical necessity for the same service(s) for which there is a medical fee dispute. No documentation was submitted to support that the issue(s) of medical necessity have been resolved prior to the filing of the request for medical fee dispute resolution.

The requestor has failed to support that the January 7, 2010 work status report billed under CPT code 99080-73 is eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

3. The respondent denied reimbursement for the September 24, 2009 work status report billed under CPT code 99080-73 based upon reason code "165-Payment denied/reduced for absence of, or exceeded referral"; and "Not treating doctor approved treatment".

Texas Labor Code §408.021(c), states "Except in an emergency, all health care must be approved or recommended by the employee's treating doctor."

The requestor did not support position that the claimant's treating doctor, Edward Breeding, referred or recommended the service; therefore, reimbursement is not recommended.

4. On August 21, 2009, the requestor obtained preauthorization approval for "CPMP for ten (10) sessions (80 hours) related to the right upper extremity".

The Division finds that the requestor has supported the position that the disputed treatment was preauthorized, and reimbursement is recommended.

28 Texas Administrative Code §134.204(h)(1)(B) states "If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR."

28 Texas Administrative Code §134.204(h)(5)(A) and (B) states "The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs:

(A) Program shall be billed and reimbursed using CPT Code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the units column on the bill. CARF accredited Programs shall add "CA" as a second modifier.

(B) Reimbursement shall be \$125 per hour. Units of less than one hour shall be prorated in 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

The Division finds that the requestor billed CPT code 97799-CP for 78 hours. Therefore, per 28 Texas Administrative Code §134.204(h)(1)(B) and (5)(A) and (B), the MAR for a non-CARF accredited program is \$100.00 per hour (\$125.00 X 80%). \$100.00 times the 78 hours billed is \$7800.00. The respondent paid \$0.00. The difference between the MAR and amount paid is \$7800.00. This amount is recommended for reimbursement.

5. On the disputed dates of service, the requestor billed for two office visits coded "99214 -Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: A detailed history; A detailed examination; Medical decision making of moderate complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent

with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 25 minutes face-to-face with the patient and/or family”.

Division rule at 28 TAC §134.203(a)(5), states “‘Medicare payment policies’ when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare.”

Per 28 Texas Administrative Code §134.203(c)(1)(2), “To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007.”

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75050, which is located in Dallas County.

The MAR for CPT code 99214 in Dallas County is $\$140.11 \times 2 \text{ dates} = \280.22 . The respondent paid \$0.00. The difference between the MAR and amount paid is \$280.22; this amount is recommended for reimbursement.

6. On December 11, 2009 the requestor billed for a work status reports code 99080-73. Per 28 Texas Administrative Code §129.5(d), “The doctor shall file the Work Status Report: 1) after the initial examination of the employee, regardless of the employee's work status; 2) when the employee experiences a change in work status or a substantial change in activity restrictions; and 3) on the schedule requested by the insurance carrier (carrier) its agent, or the employer requesting the report through its carrier, which shall not to exceed one report every two weeks and which shall be based upon the doctor's scheduled appointments with the employee.” The requestor did not document a change in the employees work status to support billed service was in accordance with 28 Texas Administrative Code §129.5. As a result, reimbursement is not recommended.
7. On the disputed dates of service, the requestor billed for four office visits coded “99213-Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Physicians typically spend 15 minutes face-to-face with the patient and/or family.”

For the three office visits billed in 2009 the MAR for CPT code 99213 in Dallas County is $\$93.02 \times 3 \text{ dates} = \279.06 . The respondent paid \$0.00. The difference between the MAR and amount paid is \$279.06; this amount is recommended for reimbursement.

The 2010 MAR for CPT code 99213 in Dallas County is \$99.13. The respondent paid \$0.00. The difference between the MAR and amount paid is \$99.13; this amount is recommended for reimbursement.

8. On the disputed dates of service, the requestor billed for two office visits coded “99212- Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: A problem focused history; A problem focused examination; Straightforward medical decision making. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting

problem(s) are self limited or minor. Physicians typically spend 10 minutes face-to-face with the patient and/or family.”

The 2009 MAR for CPT code 99212 in Dallas County is \$56.37. The respondent paid \$0.00. The difference between the MAR and amount paid is \$56.37. The requestor is seeking dispute resolution for \$55.71; this amount is recommended for reimbursement.

The 2010 MAR for CPT code 99212 in Dallas County is \$59.10. The respondent paid \$0.00. The difference between the MAR and amount paid is \$59.10; this amount is recommended for reimbursement.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports reimbursement sought by the requestor. The Division concludes that the requestor supported its position that reimbursement is due. As a result, the amount ordered is \$8573.22.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$8573.22 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	<u>5/2/2012</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.